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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,062	03/30/2001	James Zu-Chia Teng	1959P/STL92000011US1	1539

7590

03/31/2004

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EXAMINER

LE, UYEN T

ART UNIT

PAPER NUMBER

2171

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,062

Applicant(s)

TENG ET AL.

Examiner

Uyen T. Le

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-10,12-18,20-24 and 31-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4,7-10,12,15-18,20,23 and 24 is/are allowed.
- 6) ☒ Claim(s) 5,6,13,14,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 31-39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's arguments regarding amended claims 1, 7, 9, 15, 17, 23 have been fully considered and found persuasive. Consequently, rejection to claims 1, , 7, 9, 15, 17, 23 is withdrawn.

2. Applicant's arguments regarding amended claims 5, 6, 13, 14, 21, 22 have been fully considered but they are not persuasive. The amended limitation of "starting" formatting when data are first stored in a previous increment merely reads on the fact that the formatting of increments in Hashimoto resumes once recording of a packet is completed (see column 9, lines 16-52).

Claim Objections

3. Claims 31-39 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 31-39 merely repeat limitations already present in the parent claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 5, 6, 13, 14, 21, 22 are rejected under 35 U.S.C. 102(a), (e) as being anticipated by Hashimoto (US 6,172,955) of record.

Regarding claim 5, Hashimoto discloses all the claimed subject matter (see the abstract, column 2, line 43- column 5, line 20). The claimed step (a) is met by the fact that the method of Hashimoto allows recording on an optical disk without waiting for a completion of a formatting operation. The claimed step (b) is met when Hashimoto shows that the formatting process is performed as a background process so that another process is acceptable after a start of the formatting process. The claimed step (b1) is met by the fact that formatting is performed concurrently with other tasks (see the abstract). Note the claim language does not require for formatting to start as soon as data is being recorded to the previous formatted increment.

Regarding claim 6, Hashimoto discloses all the claimed subject matter (see the abstract, column 2, line 43- column 5, line 20). The claimed step (a) is met by the fact that the method of Hashimoto allows recording on an optical disk without waiting for a completion of a formatting operation. The claimed step (b) is met when Hashimoto shows that the formatting process is performed as a background process so that another process is acceptable after a start of the formatting process. The claimed step (b1) is met by the fact that the method continuously formatting the at least one subsequent increment for the database as a background process (see the abstract).

Claims 13, 14 correspond respectively to a computer program product for the method of claims 5, 6, thus are rejected for the same reasons stated in claims 5, 6 above.

Claims 21, 22 correspond respectively to a system for the method of claims 5, 6, thus are rejected for the same reasons stated in claims 5, 6 above.

Allowable Subject Matter

5. Claims 1, 2, 4, 7-10, 12, 15-18, 20, 23, 24 are allowable.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose or make obvious formatting incrementally a storage device by asynchronously formatting a subsequent increment in response to occupation of a previous increment reaching a threshold of less than one hundred percent occupation of the previous increment, in combination with all the limitations of claims 1, 7, 9, 15, 17, 23.

Claims 2, 4, 8, 10, 12, 16, 18, 20, 24 being further limiting and definite are also allowable.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Williams et al (US 6,401,168) teach FIFO disk data path manager and method.

Sims, III et al (US 6,009,058) teach a method of reducing formatting time for rewritable compact disks by preformatting less than the entire standard logical format.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen T. Le whose telephone number is 703-305-4134.

The examiner can normally be reached on M-F 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

26 March 2004



**UYEN LE
PRIMARY EXAMINER**